



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2010-0143; FRL-9759-6]

**Approval and Promulgation of Air Quality Implementation Plans;
Maryland; The 2002 Base Year Inventory for the Baltimore, Maryland Nonattainment
Area for the 1997 Fine Particulate Matter National Ambient Air Quality Standard**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve the fine particulate matter (PM_{2.5}) 2002 base year emissions inventory portion of the State of Maryland State Implementation Plan (SIP) revision submitted by the State of Maryland, through the Maryland Department of the Environment (MDE), on June 6, 2008 for Baltimore, Maryland. The emissions inventory is part of Maryland's June 6, 2008 SIP revision that was submitted to meet nonattainment requirements related to the Baltimore, Maryland nonattainment area (hereafter referred to as Baltimore Area or Area) for Maryland's 1997 PM_{2.5} National Ambient Air Quality Standard (NAAQS) SIP. EPA is approving the 2002 base year PM_{2.5} emissions inventory for Baltimore, Maryland submitted by MDE in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on [insert date 60 days after publication in the Federal Register] without further notice, unless EPA receives adverse written comment by [insert date 30 days after publication in the Federal Register]. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the Federal Register and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number **EPA-R03-OAR-2010-0143** by one of the following methods:

- A. www.regulations.gov. Follow the on-line instructions for submitting comments.
- B. E-mail: mastro.donna@epa.gov.
- C. Mail: EPA-R03-OAR-2010-0143, Donna Mastro, Acting Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.
- D. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. **EPA-R03-OAR-2010-0143**. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact

information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index.

Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT: Asrah Khadr, (215) 814-2071, or by e-mail at khadr.asrah@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

II. Summary of SIP Revision

III. Final Action

IV. Statutory and Executive Order Reviews

I. Background

On July 16, 1997, EPA promulgated the 1997 PM_{2.5} NAAQS, including an annual standard of 15.0 micrograms per cubic meter (µg/m³) based on a 3-year average of annual mean PM_{2.5} concentrations, and a 24-hour (or daily) standard of 65 µg/m³ based on a 3-year average of the 98th percentile of 24-hour concentrations. 62 FR 38652 (July 18, 1997). EPA established the standards based on significant evidence and numerous health studies demonstrating that serious health effects are associated with exposures to PM_{2.5}.

Following promulgation of a new or revised NAAQS, EPA is required by the CAA to designate areas throughout the United States as attaining or not attaining the NAAQS; this designation process is described in section 107(d)(1) of the CAA. In 1999, EPA and state air-quality agencies initiated the monitoring process for the 1997 PM_{2.5} NAAQS and, by January 2001, established a complete set of air-quality data. On January 5, 2005, EPA published initial air-quality designations for the 1997 PM_{2.5} NAAQS (70 FR 944), which became effective on April 5, 2005, based on air-quality monitoring data for calendar years 2001-03.

On April 14, 2005, EPA promulgated a supplemental rule amending the agency's initial designations (70 FR 19844), with the same effective date (April 5, 2005) as that which was promulgated at 70 FR 944. As a result of this supplemental rule, PM_{2.5} nonattainment designations are in effect for 39 areas, comprising 208 counties within 20 states (and the District of Columbia) nationwide, with a combined population of approximately 88 million. The Baltimore Area which is the subject of this rulemaking was included in the list of areas not attaining the 1997 PM_{2.5} NAAQS.

On June 6, 2008, the State of Maryland submitted a revision to the Maryland SIP (#08-04) to meet nonattainment requirements for the Baltimore Area. On May 22, 2012 (77 FR 30208), EPA determined that Maryland had attained the 1997 PM_{2.5} NAAQS in the Baltimore Area. That determination was based upon quality assured, quality controlled and certified ambient air monitoring data that showed the Area had monitored attainment of the 1997 PM_{2.5} NAAQS for the 2007-2009 monitoring period and that continued to show attainment of the 1997 PM_{2.5} NAAQS based on the 2008-2010 data. The May 22, 2012 determination suspended the requirements for Maryland to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIP revisions related to attainment of the standard for so long as the nonattainment area continues to meet the 1997 PM_{2.5} NAAQS. On June 21, 2012, MDE withdrew portions of the June 6, 2008 Baltimore, Maryland 1997 PM_{2.5} SIP revision including the attainment plan, analysis of reasonably available control measures, attainment demonstration, contingency plans and mobile source budgets. To meet the requirements of CAA section 172(c)(3), MDE did not request the withdrawal of the 2002 base year emission inventory portion of the June 6, 2008 1997 PM_{2.5} SIP revision. Section 172(c)(3) of the CAA requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions.

II. Summary of SIP Revision

The 2002 base year emission inventory submitted by MDE on June 6, 2008 for Baltimore, Maryland includes emissions estimates that cover the general source categories of stationary point sources, stationary nonpoint sources, nonroad mobile sources and onroad mobile sources.

The pollutants that comprise the inventory are nitrogen oxides (NO_x), volatile organic compounds (VOCs), PM_{2.5}, coarse particles (PM₁₀), ammonia (NH₃), and sulfur dioxide (SO₂). EPA has reviewed the results, procedures and methodologies for the 2002 base year emissions inventory submitted by MDE for Baltimore, Maryland. The year 2002 was selected by MDE as the base year for the emissions inventory per 40 CFR 51.1008(b). A discussion of the emissions inventory development as well as the emissions inventory can be found in the June 6, 2008 SIP submittal.

The CAA section 172(c)(3) emissions inventory is developed by the incorporation of data from multiple sources. States were required to develop and submit to EPA a triennial emissions inventory according to the Consolidated Emissions Reporting Rule (CERR) for all source categories (i.e., point, area, nonroad mobile and on-road mobile). The 2002 emissions inventory was based on data developed by MDE. The data were developed according to current EPA emissions inventory guidance, "Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter NAAQS and Regional Haze Regulations," August 2005. EPA agrees that the process used to develop this emissions inventory is adequate to meet the requirements of CAA section 172(c)(3), the implementing regulations, and EPA guidance for emission inventories. More information regarding the review of the base year inventory can be found in the technical support document (TSD) that is located in this docket.

III. Final Action

EPA is approving the 2002 base year emissions inventory portion of the SIP revision submitted by Maryland through MDE on June 6, 2008 for Baltimore, Maryland. EPA is publishing this

rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comment. However, in the “Proposed Rules” section of today’s Federal Register, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on [insert date 60 days from date of publication in the Federal Register] without further notice unless EPA receives adverse comment by [insert date 30 days from date of publication in the Federal Register]. If EPA receives adverse comment, EPA will publish a timely withdrawal in the Federal Register informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);

- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [Insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today’s Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking.

This action pertaining to the PM_{2.5} 2002 base year emissions inventory portion of the Maryland SIP may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: November 21, 2012.

W. C. Early,
Acting, Regional Administrator,
Region III.

40 CFR part 52 is amended as follows:

PART 52 - [APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart V--Maryland

2. In § 52.1070, the table in paragraph (e) is amended by adding at the end of the table an entry for 2002 Base Year Emissions Inventory for the 1997 fine particulate matter (PM_{2.5}) standard to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* * * *	* * *			
2002 Base Year Emissions Inventory for the 1997 fine particulate matter (PM _{2.5}) standard	Baltimore, Maryland 1997 PM _{2.5} nonattainment area	6/8/08	[Insert Federal Register publication date] [Insert page number where the document begins]	§ 52.1075(n)

3. In § 52.1075, paragraph (n) is added to read as follows:

§ 52.1075 Base year emissions inventory.

* * * * *

(n) EPA approves as a revision to the Maryland State Implementation Plan the 2002 base year emissions inventory for the Baltimore, Maryland 1997 fine particulate matter (PM_{2.5})

nonattainment area submitted by the Maryland Department of Environment on June 6, 2008.

The 2002 base year emissions inventory includes emissions estimates that cover the general source categories of point sources, non-road mobile sources, area sources, on-road mobile sources, and biogenic sources. The pollutants that comprise the inventory are nitrogen oxides (NO_x), volatile organic compounds (VOCs), $\text{PM}_{2.5}$, coarse particles (PM_{10}), ammonia (NH_3), and sulfur dioxide (SO_2).

[FR Doc. 2012-29610 Filed 12/07/2012 at 8:45 am; Publication Date: 12/10/2012]